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PATENT
HMD2000-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Giaccherini et al.

Examiner: Ly, Anh Vu H.

Serial No.: 09/579,324

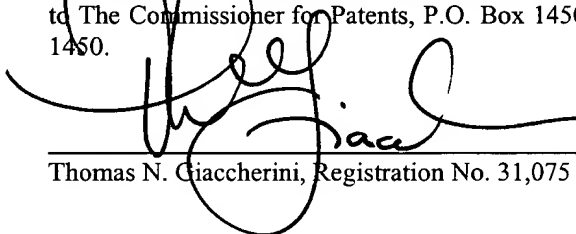
Group Art Unit: 2667

Title: **Method for Using
Excess Communications Capacity**

Filed: 25 May 2000

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Patent Office by U.S.P.S. First Class Mail in accordance with the provisions of 37 CFR Section 1.8 on the date subscribed to below, and is addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.


Thomas N. Giaccherini, Registration No. 31,075

Date

31 Aug 2005.

LETTER IN RESPONSE TO PATENT OFFICE QUALITY REVIEW

The Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

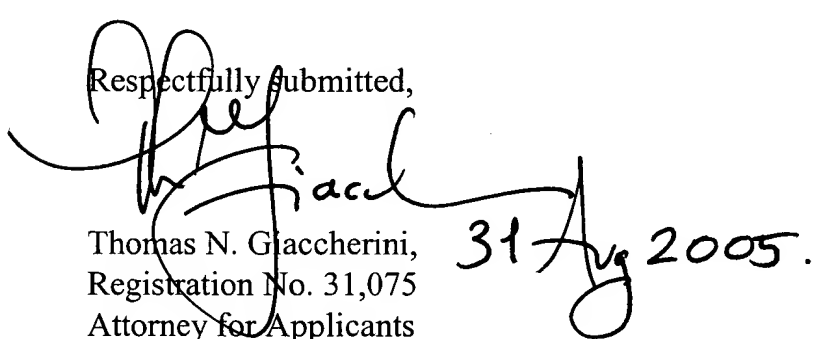
On Wednesday 27 July 2005, Examiner Anh Vu H. Ly contacted the Attorney of Record for the Present Patent Application by telephone. The Examiner informed the Attorney of Record that the U.S. Patent Office had conducted a Quality Review of the Present Patent Application after the Notice of Allowance dated 1 June 2005 had been mailed. The Examiner explained that the Patent Office had discovered new art cited in a related, co-pending Application filed by Applicants, and that the Patent Office intended to re-open prosecution of the Present Patent Application in accordance with 37 C.F.R. Section 1.313 and MPEP Section 1308.

The Attorney of Record advised the Examiner that he intended to file a Disclosure Statement on or before the day that the Issue Fee would be paid. This Disclosure Statement would identify documents cited against related U.S. and PCT International Patent Applications to comply with Rule 56 and the *Dayco* decision. At the time of the Attorney of Record's discussion with the Examiner on 27 July 2005, the Attorney of Record had not yet analyzed any of the cited documents.

This Letter is accompanied by the new Disclosure Statement.

As of 31 August 2005, the Attorney of Record has not received a formal written Notice of Withdrawal from Issue from the Patent Office. Since no Notice of Withdrawal of Application initiated by the Patent Office has been received by the Applicants, a completed Issue Fee Transmittal is also included with this Letter. The Attorney of Record presumes that the Applicants are required to submit the Issue Fee Transmittal on or before the 1 September 2005 due date to preserve the pendency of the Present Application. The Attorney of Record understands that it is the current intention of the Patent Office not to accept the Issue Fee payment, and to re-open the prosecution of the Present Application.

Respectfully submitted,


Thomas N. Giaccherini,
Registration No. 31,075
Attorney for Applicants

31 Aug 2005.

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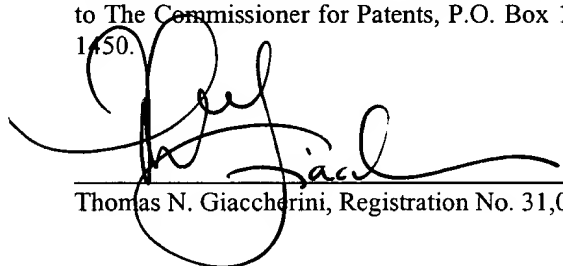
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Thomas N. Giaccherini, Registration No. 31,075

Date 31 Aug 2005

**APPLICANTS' COMMENTS
ON STATEMENT FOR REASONS OF ALLOWANCE**

The Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

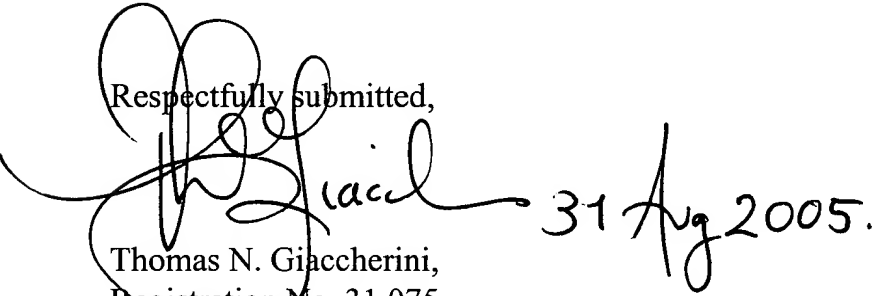
Sir:

The Applicants agree with the Examiner's Statement of Reasons for Allowance, which was attached to the Notice of Allowance mailed on 1 June 2005. The Applicants agree that Claim 1, as revised by the Examiner's Amendment, is allowable over the prior art.

The Applicants additionally note that the revision made to Claim 1 by the Examiner's Amendment was agreed to by the Applicants without prejudice to the Applicants' right to further prosecute Claim 1 in the form in which it was presented prior to the Examiner's Amendment. The Applicants agreed to the Examiner's Amendment for the purpose of expediting the issuance of the Patent, and to eliminate the need to further prosecute the appeal pending before the Patent & Trademark Office Board of Appeals & Interferences. Notwithstanding the Applicants' agreement to amend Claim 1 by the Examiner's Amendment, the Applicants nonetheless submit that Claim 1, in the form in which it was presented prior to the Examiner's Amendment, comprises patentable subject matter.

The Applicants believe that no fee is required to enter these comments.

Respectfully submitted,


Thomas N. Giaccherini,
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Attorney for Applicants

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Thomas N. Giaccherini, Registration No. 31,075

Date 31 Aug 2005.

**SUPPLEMENT TO THE EXAMINER'S
INTERVIEW SUMMARY**

The Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

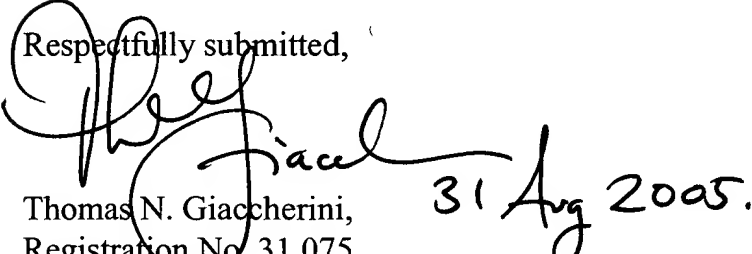
Sir:

The Applicants submit that the Examiner's Interview Summary, which was attached to the Notice of Allowance mailed on 1 June 2005, is accurate. The Attorney of Record and the Examiner, during the course of several telephone interviews conducted between 13 and 15 May 2005, agreed that Claim 1, as presented in the Examiner's Amendment, recites patentable subject matter.

The Attorney of Record further notes that prior to agreeing to the revision of Claim 1 as set forth in the Examiner's Amendment, the Attorney of Record expressly stated to the Examiner that the agreement to revise Claim 1 was being made by the Applicants for the purpose of expediting the issuance of the Patent by eliminating the need to further prosecute the pending appeal and without prejudice to the Applicants' right to further prosecute Claim 1 in the form in which it was presented prior to the Examiner's Amendment. The Attorney of Record informed the Examiner that the Applicants maintain their belief that Original Claim 1 recites patentable subject matter compared to the art that has been cited by the Patent Office in the First and Second Office Actions, despite the fact that Claim 1 was revised to obtain this allowance.

The Applicants believe that no fee is required to enter this Supplement.

Respectfully submitted,


Thomas N. Giaccherini,
Registration No. 31,075
Attorney for Applicants

31 Aug 2005.

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